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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Federal Communications Commission
Office of Secretary

In the Matter

NYNEX and Ameritech

Petitions for Forbearance from

Application of Section 272 of the

Communications Act of 1934,

as Amended, to Previously

Authorized Services

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CC Docket No. 96-149

COMMENTS OF AT&T CORP.

Pursuant to the Public Notice issued May 14, 1997, AT&T respectfully submits its Comments on NYNEX's and Ameritech's petitions for forbearance under Section 10 of the Communications Act of 1934, as amended,¹ from the application of the requirements of Section 272 of the Act to NYNEX's E911 service, and to Ameritech's 911 and Telecommunications Relay Services ("TRS").

In its Petition (p. 2), NYNEX asserts that RBOC provision of E911 service, which hands off emergency calls to public or private agencies in different LATAs and transmits data across LATA boundaries, was found to "not endanger competition" by

¹ Section 10(a) of the Act provides that the Commission shall forbear from application of any provision of the Act "if the Commission determines that -

(1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that telecommunications carrier or telecommunications service are just and reasonable and are not unjustly or unreasonably discriminatory;

(2) enforcement of such regulation or provision is not necessary for the protection of consumers; and

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the U.S. District Court and the Department of Justice ("DOJ"). NYNEX further states (p. 3) that application of the separate affiliate requirement is not necessary to protect consumers because such separation "could interfere with the integrity of the service" and increase its cost. Finally, NYNEX avers (pp. 3-4) that forbearance serves the public interest, relying on the District Court's Order permitting the BOCs to offer E911 and the DOJ's support of that result.

Ameritech seeks forbearance from § 272 not only for E911, but for its 911 services generally (pp. 2-3). In addition, its petition requests (p. 3) that the Commission forbear from enforcing § 272's separation requirements for its TRS services in Michigan and Ohio. The arguments Ameritech offers parallel those made by NYNEX and other BOCs in the context of E911: Ameritech states (p. 2) that it has previously received waivers from the District Court and that the Department of Justice supported these waiver requests. Its petition also contends that complying with § 272 could "cause significant disruption and cost increases" for its 911 and TRS services (p. 3).

While neither petition appears to satisfy the three-part Section 10 standard,² AT&T would not oppose an appropriate application of the Commission's forbearance authority in

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(3) forbearance from applying such provision or regulation is consistent with the public interest."

² As a threshold matter, NYNEX's and Ameritech's reliance on waivers granted by the District Court and the DOJ's support of such waiver requests is insufficient to demonstrate that their waiver requests meet the specific criteria for forbearance under Section 10, because those earlier rulings turned on significantly different and narrower circumstances than required by Section 10 of the Act. In particular, the District

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connection with the imposition of Section 272 structural separation requirements to the 911 and E911 services covered by the instant petitions.³ However, it is less clear that forbearance would be warranted in connection with Ameritech's TRS service; and Ameritech offers absolutely no support for its claims concerning the difficulty of separating those activities from its existing exchange carrier operations.

The unique nature of 911 and TRS suggest that, upon a proper showing by an RBOC that its provision of these services on an integrated basis meets the test for forbearance under the Act, it may be appropriate for the Commission narrowly to exercise its forbearance authority to allow the integrated provision of those services by that RBOC.⁴ In that event, however, it is important that the Commission make clear that it is not deregulating 911, E911 or TRS, and that it is not relieving the RBOC from compliance with the nondiscrimination and other

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Court and the DOJ did not address the implications of integration of 911, E911 or TRS services for potential BOC competitors in the local exchange market.

³ However, to the extent that the effect of NYNEX's or Ameritech's integrated provision of 911 or E911 services enable them exclusively to access unlisted numbers, as well as numbers available from other LECs that utilize their databases for directory assistance services, such exclusive access to that information discriminates against competitive providers, and precludes them from offering their own E911 services. So long as NYNEX and Ameritech continue to offer 911 and E911 services to end users and other carriers, they may not deny competitive providers the ability themselves to offer such services by denying them essential unlisted and third-party-LEC number information. This is precisely what the Section 272 safeguards are intended to prevent.

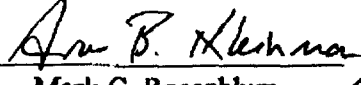
⁴ The BOCs continue to seek to exempt more and more services from § 272, offering only utterly unsupported assertions that compliance with that section's separation requirements might cause disruptions in service or price increases. Congress plainly did not intend that the Commission's section 10 authority be so casually invoked, but rather required a three-part showing that forbearance would be appropriate.

requirements of § 272 or any other legal requirement. In addition, forbearance concerning these services explicitly should provide no precedent with regard to other RBOC services.⁵

Respectfully submitted,

AT&T CORP.

By:


Mark C. Rosenblum
Leonard J. Cali
Ava B. Kleinman

Its Attorneys

295 North Maple Avenue
Room 3252J1
Basking Ridge, New Jersey 07920
(908) 221-8312

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⁵ In this regard, the RBOC should continue to be subject to the accounting and nondiscrimination safeguards required under the Commission's Computer Inquiry rulings for its E911 information service, including the Commission's joint cost rules, 47 C.F.R. §64.901, appropriate amendments to its cost allocation manual, see 47 C.F.R. §64.903(b), and compliance with the Computer III customer proprietary network information requirements, as amended by Section 222 of the 1996 Act.